

Township Of Chatham Zoning Board of Adjustment
Special Meeting October 14, 201

Mr. Vivona called the Meeting to Order at 7:30 P.M with the reading of the Open Public Meetings Act.

ROLL CALL:

| | | |
|---------------|--------------------|------------|
| Mr. Vivona | Mrs. Kenny | Mr. Weston |
| Mr. Williams | Mrs. Romano | Mr. Styple |
| Mr. Borsinger | Mr. Hyland, Alt. 2 | |

Professionals Present: Steven Shaw, Attorney
John Ruschke, Engineer
Robert Michaels, Planner

**Chatham Day School
Block 135 Lot 1 & 9.**

Calendar BOA 15-135-1 & 9

Attorney: Steve Schaffer, Esq.

Mr. Schaffer said he had been before the Board on the September 17th requesting a special meeting for this date. Unfortunately there had been an error in the legal notice. He extended his sincere apologies. He said they had given the required reports to Mr. Ruschke and Mr. Michaels. Mr. Ruschke felt there were no major issues. He now asked if the Board would direct Mr. Shaw to draft a Resolution for this application for the October 29th meeting. We have had presented many experts that gave testimony for this application. We have done additional landscaping and sound walls and everyone appears to be happy with what was done. He did not expect any feedback from the objectors for this application.

Mr. Shaw noted that the only variance associated with this as a result of the additional square footage on the second floor could affect the parking. However, in the prior Resolution the applicant had 129 parking space proposed which was adequate for the 240 students in the elementary school.

Mr. Schaffer said that was designed for the maximum capacity. Right now we have 176.

Mr. Vivona asked if there were any objectors. None heard.

Mr. Shaw had spoken with Mr. Simon and his clients are satisfied in the way things turned out. He will presumably confirm that when he comes on the 29th. To his knowledge we expect no rebuttals. He did, hoping they would be heard on the 29th, published a legal notice for same. He expected that the presentation will not be long in duration as he will fine tune it and make it as simple as possible.

Mariam Vaziri
43 Susan Drive
Block: 20 Lot: 15.

Calendar BOA 15-20-15

Attorney, Mr. Quinn
Engineer, Mr. Moschello
Planner, Mr. J. Dowling

Mr. Quinn said this was an application to construct a single family home on property containing steep slopes. Variances are needed for height, steep slopes, front yard. We have addressed all comment,

suggestions made by this Board and its Professionals. He felt there was an application before this Board that was very appropriate for this property and the neighborhood and request that this application be approved.

Mr. Vivona noted that we have gone back and forth many times and you have done all that has been asked of you. He appreciated that you have gone the extra mile to make this work and fit in the neighborhood. It is noted that there is no one here in opposition. He felt it would be a nice addition.

Mrs. Stillinger, Representing the Environmental Commission asked about the conservation easement.

Mr. Shaw said the applicant has agreed to install a split rail fence which would delineate the area where the conservation is located. He went on to say, based on previous applications in this area, we adopted all the conditions into this application. (This was submitted/approved by Environmental Commission).

Mr. Shaw said we still had one D Height Variance and listing of special reasons in so far as that variance relief will be not detrimental to the Environment.

Mr. Quinn said explained what had been done to justify this application/variance. The topography itself requires a height variance.

Mr. Vivona asked about the calculations for the 2.5-3 floor elevations.

Mr. Quinn said they had been reviewed by Mr. Ruschke's office.

Mr. Shaw noted there were three comments in Mr. Ruschke's report dealing with construction sequence, detail, pre-construction meetings. We usually require a pre-construction meeting which we will put in as a condition of approval along with preconstruction meeting with the contractor, contact information provided and regular inspection are to be made which apply to extreme weather conditions to be sure everything is in order. These will be included in the Resolution. In terms of the number of variances – minimum setback in front; maximum height to 39.62 ft. (D6); maximum height re: retaining walls; maximum setback distance from principal structure /retaining wall; setback distance to above structure; min. setback distance to the structural retaining wall; max. steep slope disturbances associated with the topography of the property (C1); also applicable to the setback locations because of a very small area on the property which is capable of being developed. You did provide testing to demonstrate the fill in the area; the revised plans will reflect the split rail fence along the conservation easement; and a fence behind the house to protect people from going down the slope areas.

Mr. Quinn said that some of that is the conservation easement

Mr. Ruschke felt that we had crossed our T's and dotted our I's and we feel comfortable with the drawings and conditions and requirements proposed. He did not anticipate any problems during construction. He said that we did decide that if construction had to be stopped you would have to come back to the Board because of the violation of the condition. It is an overwhelming process so it is in the

applicant's best interest to keep on top of all contractors. Hopefully everything will go smoothly. If a condition is violated it will be an extremely painful process.

Mr. Quinn said they had discussed this and is clear on what needs to be done.

Mr. Vivona pointed out that another house had lost six months to a year.

Mrs. Kenny we think we have everything done but if we do have to see you again we will not be happy. The neighbors are not here with any concerns so she thought she was comfortable with this.

Mr. Vivona we think we have a good system but as far as cooperation, one hand has to watch the other. If this is done right it will make other properties easier to develop.

Mr. Vivona asked if there were any further questions from the Board/Public. None Heard. He then asked if someone wanted to make a motion.

Mr. Williams moved to approve the application with the conditions as outlined, seconded by Mr. Huland.
Roll Call: Mr. Borsinger, Mrs. Romano, Mr. Weston, Mr. Williams, Mrs. Kenny, Mr. Hyland, Mr. Vivona All in favor

Mr. Shaw said that he would have the Resolution prepared for the next regular meeting.

Mr. Shaw advised the Board of two litigation matters. New Cingular scheduled for October 27th and he can email the papers to anyone on the Board who wants to see it. Judge has up to 45 days if need be. He suggested discussing it in Executive Session in October 29th meeting. The second one is a Law Suit where some folks are suing Chatham Township for something they perceive as zoning violations. They are asking the Township to do something. There would be an appeal to this Board to determine whether or not the decisions being made are correct. There is a time frame for that appeal to be filed. There were concerns regarding dumpsters on the property – the old Miele's dump. Enforcement action had been taken and that could have been appealed to the Board and we could have been involved in a lengthy proceeding to determine whether or not there had been zoning violations and the Town was enforcing them properly. Sometime you even have the Township appearing as part of the interpretation cases like these. At this point, it was Mr. Shaw understanding that the changes were extreme and therefore little likelihood that they were not going to pursue it further. If the appeal is not followed and the time period has passed we can assume we will not have that appeal in front of us.

Mr. Vivona – getting back to Buxton if the judge rules in favor of Cingular and no one appeals it they can basically do as they want.

Mr. Shaw said if its approved it could be redirected or the judge could sustain it or reverse our decision. If the decision is reversed we will go over the grounds for why he reversed and we can evaluate whether its worth taking it up on appeal. Costs/expenses of doing things like this are in the cost of transcripts which have already been prepared. We have to wait and see what the decision is and if there are grounds for appeal. We can discuss how we want to proceed.

Mrs. Romano asked if Mr. Shaw went to these hearings.

Mr. Shaw said he did. It's a bench trial in judgement courts chambers. The process is essentially oral argument by counsel based on what the record contains. The judge will question us and may render a decision that day. The court date is the 27th.

Meeting Adjourned, motion by Mr. Williams, seconded By Mrs. Romano

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Mary Ann Fasano".

Mary Ann Fasano
Transcribing Secretary